



## NEWS REPORT

<b>Date:</b>	2 October 2011
<b>Expert:</b>	András Kádár
<b>Title:</b>	European criticism on Hungarian Constitution omitting sexual orientation from the list of protected grounds
<b>Country:</b>	Hungary
<b>Context</b>	
<b>Issue at stake:</b>	The new Hungarian Constitution does not list sexual orientation among the grounds protected from discrimination. This triggered criticism from different European organisations.
<b>Ground of discrimination:</b>	Sexual orientation
<b>Source:</b>	legislation and political development
<b>Field:</b>	All fields
<b>Legislative provisions:</b>	Article XV of the Fundamental Law of Hungary

### Content

**Law/political development:** On 25 April 2011 the Fundamental Law of Hungary was promulgated. Despite warnings and strong criticism from NGO's, practitioners and scholars, and in spite of the Government's claim that the Fundamental Law will be based on the Charter of Fundamental Rights to the greatest possible extent, the provision on the ban on discrimination does not list sexual orientation among the grounds protected from discrimination. The text runs as follows: "Hungary provides the fundamental rights to everyone without any discrimination, namely discrimination based on race, colour, gender, disability, language, religion or other opinion, national or social origin, financial, birth-related or any other situation". While the list is open ended (which means that sexual orientation can be protected as one of the "other situations"), this development has been found to be problematic by both the Venice Commission and the European Parliament.

In its Opinion on the New Constitution of Hungary (adopted on 20 June 2011 at its 87th Plenary Session based on the request of the Monitoring Committee of the Parliamentary Assembly), the Venice Commission – while proceeding from the assumption that the Hungarian Constitutional Court will interpret the grounds for discrimination in a manner according to which Article XV prohibits also discrimination on grounds of sexual orientation – pointed out that the Fundamental Law of Hungary "might create the impression that discrimination on this ground is not considered to be reprehensible".

Based on the opinion of the Venice Commission, on 5 July 2011 the European Parliament delivered a resolution on the Revised Hungarian Constitution.

The resolution claims that “whereas the new Constitution fails to explicitly lay down a number of principles which Hungary, stemming from its legally binding international obligations, is obliged to respect and promote, such as [...] the prohibition on discrimination on the grounds of sexual orientation”, the European Parliament calls on the Hungarian authorities to “guarantee equal protection of the rights of every citizen, no matter which religious, sexual, ethnic or other societal group they belong to, in accordance with Article 21 of the Charter of Fundamental Rights, in the Constitution and its preamble.”

In their reactions provided to the press, Hungarian officials claimed that they did not see the need to revise Article XV of the Fundamental Law in light of the European criticism.

**Internet link source and additional information:**

<http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0315+0+DOC+XML+V0//EN>

[http://www.venice.coe.int/docs/2011/CDL-AD\(2011\)016-E.pdf](http://www.venice.coe.int/docs/2011/CDL-AD(2011)016-E.pdf)